



COMMONWEALTH of VIRGINIA

Office of the Attorney General

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Attorney General

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Dear Chambers of Commerce:

I write to you with an exciting announcement regarding a new emphasis on patent trolling, an illegal practice in Virginia that can affect any businesses of all sizes. My office has launched the **Attorney General's Patent Troll Unit** to help protect Virginia businesses from bad faith and abusive patent enforcement practices, and we want you and your members to be aware of our services.

Patent trolls send bad faith demand letters that assert patent infringement and threaten to bring expensive litigation if the recipient does not agree to pay a licensing fee. This practice forces high-tech and Main Street businesses to choose between paying unjustified licensing fees or engaging in costly litigation. In 2015, more patent lawsuits were filed than any year in history, and studies have estimated that patent trolling costs American businesses as much as \$29 billion annually.

The Attorney General's Patent Troll Unit was made possible by your support of legislation passed during the 2014 General Assembly that gave my office new enforcement powers and resources to investigate cases of patent trolling and seek financial penalties and injunctions against those who assert patent infringement claims in "bad faith" even if they are based outside of Virginia.

Below are instructions on how to report potential instances of patent trolling. Please share this letter with your membership and encourage them to contact my office if they believe they have been targeted by a patent troll. Instances of patent trolling can be reported on the Patent Troll Unit's website, or by email or telephone. The unit can be contacted by:

Website: www.ag.virginia.gov/patents
Email: patents@oag.state.va.us
Phone: (804) 786-2071

When reporting a potential violation, the following information/documentation should be included:

- Contact information for the business or individual being targeted by the bad faith assertion of patent infringement;
- Contact information for the alleged patent troll;

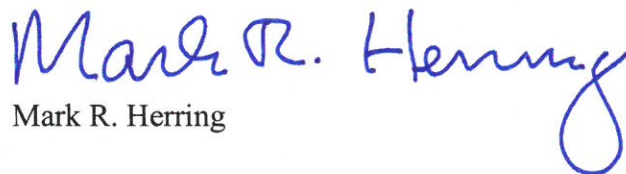
- Details about the assertion of patent infringement (number of demand letters, patents asserted, a description of the product that allegedly infringes the patent, whether a license was offered and at what price, etc.);
- Details about the target's actions since receiving the assertion of patent infringement (contacted alleged patent troll, sought legal counsel, filed a declaratory judgment action, etc.); and
- A copy of any demand letter(s) received by the target.

Upon receiving this information, the unit, led by Greg Richards, a registered patent attorney, will investigate and determine if the conduct violates Virginia's statute. Examples of conduct to report include: issuance of a demand letter that contains false statements, does not identify the patent holder, fails to specify how the target is infringing, asserts infringement claims that have already been declared baseless by a court, or seeks a license fee that is not related to the value of the patent.

Reporting a suspected patent troll to the unit does not prevent a patent owner from filing a patent infringement action, or relieve a recipient's obligation to formally respond if an infringement action is filed, and it is not a substitute for retaining legal counsel.

Again, thank you for your support of this new unit and please share this information with your membership. We hope that these new enforcement mechanisms will allow our office to help protect Virginia businesses from being a target of baseless lawsuits that stifle growth. I look forward to working with you in the future on similar endeavors.

Sincerely,



Mark R. Herring